IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 30115 of 2004(S)

OA.78/2004 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. **UNION OF INDIA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI.**

2. **THE CHIEF PASSPORT OFFICER & JOINT SECRETARY (CPV) MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI.**

3. **THE PASSPORT OFFICER, PASSPORT OFFICE, KOZHIKODE.**

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR

RESPONDENTS:
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1. **K.MADHUSOODANAN, AGED 47 YEARS, S/O. M.K.KARUNAKARAN NAIR, UPPER DIVISION CLERK, PASSPORT OFFICE, KOZHIKODE, RESIDING AT K.P.13/303A, NIHARIKA, M.C.ROAD, P.O.KAARANTHUR, KOZHIKODE -673 571.**

2. **K.MOHANAN, AGED 47 YEARS, S/O.LATE V.RAMAN NAIR, UPPER DIVISION CLERK, PASSPORT OFFICE, KOZHIKODE, RESIDING AT KRISHNAKRIPA, MAMMILLITHAZHAM, PAROPPADY, CHEVARAMBALAM ROAD, P.O.MALAPARAMBA, KOZHIKODE 673 009.**

3. **S.PRAKASH, AGED 52 YEARS, S/O. M.N.SREEDHARAN NAIR, UPPER DIVISION CLERK, PASSPORT OFFICE, KOZHIKODE, PERMANENTLY RESIDING AT KRISHNAPRIYA, P.O.CHIRAKKADAVU, KOTTAYAM 686 520.**

4. V.BALAKRISHNAN, AGED 53 YEARS,
S/O. LATE ANDY, UPPER DIVISION CLERK,
PASSPORT OFFICE, KOZHKODE, PERMANENTLY RESIDING
AT BALA NIVAS, KANNAMPARIYARAM, P.O.MANKARA,
PALAKKAD 678 613.

BY ADV. SRI.M.A.SHAFIK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 30115/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORIGINAL APPLICATION DT. 24/1/2004.

EXT.P2. COPY OF THE REPLY STATEMENT DT. 9/3/04 FILED BY THE RESPONDENT.

EXT.P3. COPY OF THE ORDER IN OA NO. 78/2004 ON THE FILE OF THE CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM BENCH.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 30115 OF 2004-S

Dated 16th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners are the respondents in O.A.No.78/2004, on the files of the Central Administrative Tribunal, Ernakulam Bench. The respondents were the applicants.

2. The brief facts of the case are the following. The respondents were ex-servicemen. They were re-employed in the Passport Office at Kochi. They were working in the post of U.D. Clerk. They were also drawing military pension. When the pay revision was introduced with effect from 1.1.1996, their salary was re-fixed, excluding the whole of the revised pension drawn by them. There was a further direction to recover the excess salary paid to them. Those proceedings were produced as Annexures A1 to A4 before the C.A.T along with Ext.P1 O.A. The applicants contended that their claim is covered by the decision of the Apex Court in **Union of India v. G.Vasudevan Pillay** [(1995)2 SCC 32] and also the decision of the

Principal Bench of the Tribunal in O.A.No.1514/2002. The petitioners herein filed Ext.P2 reply statement and produced Ext.R1 O.M., in support of their stand. The Tribunal after hearing both sides, allowed the O.A., relying on the decision of the Principal Bench in O.A.No.1514/2002, by Ext.P3 order. Hence this writ petition challenging Ext.P3.

3. The petitioners relied on Annexure-R1 O.M dated 19.11.1997, to support the impugned orders. The respondents herein pointed out that an identical circular issued during the earlier pay revision period was quashed by the Apex Court in **Union of India v.G.Vasudevan Pillay** [(1995)2 SCC 32]. The present O.M is a replica of the earlier O.M quashed by the Apex Court. It is also submitted that the present O.M dated 19.11.1997 has already been set aside by the Principal Bench of the Tribunal in O.A.No.1514/2002. Therefore, the respondents submit that Ext.P3 is legal and valid.

4. We find that the point raised by the petitioners is covered against them by the decision of the Apex Court in **Union of India v. G.Vasudevan Pillay** (supra) and also the decision of the Principal Bench of the C.A.T in O.A.No.1514/2002. So, the present O.A was rightly allowed by Ext.P3. We agree with the reasoning and conclusion of the C.A.T., stated in Ext.P3

order. Accordingly, the writ petition fails and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/